

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GREENLEAF LIMITED PARTNERSHIP)

Plaintiff)

v.)

ILLINOIS HOUSING DEVELOPMENT)
AUTHORITY)

Defendant)

Civil Action No. 08-2480

Judge Virginia M. Kendall

JOINT INITIAL STATUS REPORT

In accordance with the Court's May 6, June 26, July 7, and July 29, 2008 Minute entries,
Plaintiff and Defendant hereby submit the following Joint Initial Status Report.

- 1. The attorneys of record for each party including the attorney expected to try the case.**

Plaintiff's Attorney of Record

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2. The basis for federal jurisdiction.

This case arises under Section 8 of the United States Housing Act of 1937, 42 U.S.C. §1437f ("Section 8"). Accordingly, there is federal question jurisdiction under 28 U.S.C. §1331.

3. The nature of the claims asserted in the complaint and any expected counterclaim.

Plaintiff is the owner of Greenleaf Apartments, a low-income multifamily housing rental project. Plaintiff and Defendant are parties to a Housing Assistance Payments Contract (the "HAP Contract") pursuant to which Defendant makes monthly housing assistance payments to Plaintiff on behalf of the tenants who live at the project. The amount of the monthly payment is the difference between the Contract Rents established under the HAP Contract and the amount of rent each tenant is required to pay.

Plaintiff alleges that the HAP Contract requires that Defendant increase the Contract Rents annually, and that Defendant has not increased the Contract Rents at Greenleaf Apartments since 1996. Plaintiff claims that Defendant's failure to increase the Contract Rents constitutes a breach of the HAP Contract for which Plaintiff is entitled to damages.

Defendant claims that its ability to increase rents is controlled by the United States Department of Housing and Urban Development ("HUD"). Pursuant to Section 8 and its implementing regulations, Defendant entered into an Annual Contributions Contract with HUD pursuant to which it then entered into the HAP Contract with Plaintiff. HUD provides all of the funding for the housing assistance payments made to Plaintiff. Defendant serves as the

"Contract Administrator" with respect to the HAP Contract and is obliged to administer the HAP Contract in accordance with HUD requirements and directives. Defendant increased or did not increase the Contract Rents at Greenleaf Apartments in accordance with HUD regulations and directives. Defendant has brought a Third-Party claim against Roy Bernardi, Acting Secretary of HUD, alleging that the Defendant is not able to adjust contract rents unless directed and permitted to do so by HUD. Defendant also alleges that it can not provide the relief or the payments Plaintiff seeks absent approval and funding from HUD.

4. The name of any party not yet served and the circumstances regarding non-service.

Third-Party Defendant, Roy Bernardi, Acting Secretary, United States Department of Housing and Urban Development, has not been served.

Defendant filed its third-party complaint against Bernardi on July 28, 2008. On July 29, the summons was served by certified mail, return receipt requested to:

Mr. Roy Bernardi
Acting Secretary
U.S. Department of Housing and Urban Development
451 7th Street S.W.
Washington, DC 20470

United States Attorney's Office
Northern District of Illinois, Eastern Division
Attn: Civil Process Clerk
219 S. Dearborn Street, 5th Floor
Chicago, Illinois 60604

Hon. Michael B. Mukasey
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-00001

Defendant will be seeking leave to file an amended third-party complaint naming newly sworn in Secretary of Housing and Urban Development, Steven C. Preston.

5. The principal legal issues.

Plaintiff believes the principal legal issues of this case are:

- a. Whether Defendant's failure to increase Plaintiff's Contract Rents annually constitutes a breach of the HAP Contract.
- b. Whether reducing the adjustment factor by .01 for non-turnover units constitutes a breach of the HAP Contract.
- c. Whether requiring Plaintiff to submit a Rent Comparability Study to Defendant constitutes a breach of the HAP Contract.
- d. What is the applicable statute of limitations.
- e. Whether the current Contract Rents should be increased to reflect the annual increases to which Plaintiff was entitled during the applicable statute of limitations period.
- f. Whether Plaintiff is entitled to the benefit of annual increases outside the statute of limitations period for the purpose of determining the Contract Rents to which the annual adjustment factors should be applied.

Defendant does not presently anticipate any additional issues beyond those identified by Plaintiff.

6. The principal factual issues.

Plaintiff and Defendant currently believe that the material facts, with the possible exception of material facts regarding damages, will be undisputed.

7. Whether a jury trial is expected by either party.

Plaintiff and Defendant do not request a jury trial.

8. A short description of any discovery undertaken to date and any anticipated in the future.

Neither party has undertaken any discovery to date. At this time Plaintiff and Defendant anticipate any discovery undertaken will be of a limited nature concerning primarily the issue of damages.

9. The earliest date the parties will be ready for trial and the length of the trial.

Plaintiff and Defendant believe that this case will be decided by summary judgment. Therefore, a trial will not be necessary.

10. Whether the parties unanimously consent to proceed before the Magistrate Judge.

With the pending addition of the third-party defendant, it is premature to determine whether there is unanimous consent for a referral.

11. The status of any settlement discussions and whether the parties request a settlement conference.

There have been no settlement discussions. Plaintiff and Defendant do not object to a settlement conference after the third-party defendant appears.

Respectfully Submitted,

August 1, 2008

GREENLEAF LIMITED PARTNERSHIP

By Its Attorneys:

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Respectfully Submitted,

ILLINOIS HOUSING DEVELOPMENT
AUTHORITY

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CERTIFICATE OF SERVICE

I hereby certify that on, August 1, 2008, I electronically transmitted the foregoing **Joint Initial Status Report** to the Clerk of the Court, using the ECF systems for filing, and caused the ECF system to transmit a Notice of Electronic Filing to the counsel of record listed on the ECF system for this case and served via United States Mail, postage prepaid, upon the following non-CM/ECF participants:

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